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October 3, 2008

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2008-3 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions or deletion of existing annotations (indicated by strikeout and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Monday, November 3, 2008**. These may be sent by e-mail using the "Comments Form" on the Board's website ([www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm)), fax or mail. Here is the mailing address:

Board of Equalization  
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Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, the changes will be posted to the Board's website under "Annotations" ([www.boe.ca.gov/proptaxes/annocont.htm](http://www.boe.ca.gov/proptaxes/annocont.htm)). After all proposed changes have been resolved, the CLD will become obsolete and deleted from the website.

This CLD is posted on the Board's website at [www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm). Copies of the backup correspondence are linked to each annotation via the annotation number. If a link does not work, please let us know by using the "Comments Form" on our website ([www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm)). If you have any questions, please contact Glenna Schultz at 916-324-5836.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG/grs  
Enclosure

# PROPERTY AND SPECIAL TAXES DEPARTMENT

## PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2008-3

October 3, 2008

### 200.0000 BASE YEAR VALUE TRANSFER—PRINCIPAL RESIDENCE

[200.0128](#) **Step Transaction Doctrine.** Revenue and Taxation Code section 69.5 allows a person to transfer the base year value from a home that was damaged or destroyed to a rental home that the taxpayer owned at the time his or home was damaged or destroyed if the rental was purchased or newly constructed within two years of the sale of the original property. If the rental was purchased more than two years prior to the sale of the original property, the assessor should not recognize an arrangement by which the rental is sold to a friend and repurchased so as to meet the two-year requirement. The step transaction doctrine allows county assessors to disregard the intermediary steps in what is in substance a single, unitary or indivisible transaction and thereby apply the tax laws to the substance of the transaction and not the form of its steps. C 5/29/2008.

### 220.0000 CHANGE IN OWNERSHIP

[220.0078](#) **Corporate Ownership.** Revenue and Taxation Code section 64(b) excludes from change in ownership transfers of real property or legal entity ownership interests among members of an affiliated group. An affiliated group is one or more chains of corporations connected through stock ownership with a common parent corporation where both of the following are met: (1) one hundred percent of the voting stock of each of the corporation is owned by one or more of the other corporations; and (2) the common parent corporations owns directly 100 percent of the voting stock of at least one of the other corporations.

The California Court of Appeal has held that "members of an affiliated group" means affiliation from the beginning of the transaction until the end of the transaction and that the affiliation cannot be just one step in the reorganization. Thus, this requires common parent corporate ownership of all parties to the reorganization both before and after the reorganization. As part of the reorganization, the transfer of real property to a newly formed subsidiary is excluded from change in ownership under Revenue and Taxation Code section 62(a)(2). It is not excluded as an affiliated group under section 64(b) because the newly created subsidiary was not part of the affiliated group prior to the reorganization. C 4/4/2008.